IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE K.BALAKRISHNAN NAIR

WEDNESDAY, THE 4TH APRIL 2007 / 14TH CHAITHRA 1929

WP(C).No. 34367 of 2006(N)

PETITIONERS:

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1. **CHINNAMMA ANTONY, AGED 80 YEARS,**
   W/O. LATE ANTONY, MAVUTHARA, KAINADY P.O.,
   KAVALAM VILLAGE, KUTTANAD TALUK,ALLEPPEY DISTRICT.

2. **JACOB ANTONY, AGED 50 YEARS,**
   MAVUTHARA, KAINADY P.O., KAVALAM VILLAGE,
   KUTTANAD TALUK, ALLEPPEY DISTRICT.

3. **MERCY ANTONY, AGED 45 YEARS,**
   MAVUTHARA, KAINADY P.O., KAVALAM VILLAGE,
   KUTTANAD TALUK, ALLEPPEY DISTRICT.

4. **ANTONY ISSAC, AGED 58 YEARS,**
   MAVUTHARA, KAINADY P.O., KAVALAM VILLAGE,
   KUTTANAD TALUK, ALLEPPEY DISTRICT.

BY ADV. SRI.GEORGE CHERIAN (THIRUVALLA).

RESPONDENTS:

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1. **THE DISTRICT COLLECTOR, ALLEPPEY.**

2. **THE TAHSILDAR (R.R), KUTTANAD,**
   MANCOMBU, ALLEPPEY DISTRICT.

3. **TONY ABRAHAM,**
   PUTHENPURAYIL, KAINADY P.O., KUTTANAD,
   ALLEPPEY DISTRICT.

4. **LAL T.MONEY,**
   RAMANILAYAM, KAINADY P.O., ALLEPPEY DISTRICT.

W.P.(C). NO.34367/2006:

5. JOJO ANTONY,
MAVUTHARA, KAINADY P.O., KAVALAM VILLAGE,
KUTTANAD TALUK, ALLEPPEY DISTRICT.

6. JOHN MARTIN,
MAVUTHARA, KAINADY P.O., KAVALAM VILLAGE,
KUTTANAD TALUK, ALLEPPEY DISTRICT.

BY ADV. SRI.A.N.RAJAN BABU,
GOVT. PLEADER SRI. MUHAMMED RAFIQ.

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 04/04/2007,THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

W.P.(C). NO.34367/2006:

APPENDIX

PETITIONER'S EXHIBITS:

EXT.P.1: COPY OF THE NOTICE PUBLISHED BY THE R.2. DTD. 27/08/06.

EXT.P.2: COPY OF THE JUDGEMENT OF THE ADDL. MUNSIFF'S COURT ALLEPPEY DTD. 21/01/1989.

EXT.P.3: COPY OF THE JUDGEMENT DTD. 31/01/1994 OF DISTRICT COURT, ALLEPPEY.

EXT.P.4: COPY OF THE DECREE IN O.S. NO. 762/1982.

EXT.P.5: COPY OF THE PETITION DTD. 14/07/2006 FILED BY THE P.1. BEFORE THE R.1. DISTRICT COLLECTOR.

EXT.P.6: COPY OF THE PETITION DTD. 15/11/2006 FILED BY THE PETITIONER.

EXT.P.7: COPY OF THE JUDGEMENT DTD. 07/12/2006.

EXT.P.8: COPY OF THE ORDER DTD. 06/12/06.

EXT.P.8.A: COPY OF THE POSTAL COVER RECEIVED ON 18/12/2006.

RESPONDENT'S EXHIBITS:

EXT.R4.A: COPY OF THE PROCEEDINGS NO. B.5909/06 DTD. 28/12/2006 OF THE REVENUE DIVISIONAL OFFICER.

EXT.R4.B: COPY OF THE FORM 18 (A) OF K.R.R. ACT.

//TRUE COPY//

prv.

K.BALAKRISHNAN NAIR,J.

WP(C)NO.34367 OF 2006-N

Judgment

The petitioners claim right over the property, which was sold in public auction, pursuant to Ext.P1 notification. They filed Ext.P6 representation, objecting to the confirmation of the sale. But, it is submitted, without hearing them, the sale was confirmed as per Ext.R4(a) proceedings. Hence this Writ Petition, seeking appropriate reliefs. The learned counsel for the petitioners also brought to my notice that the District Collector had issued a notice, proposing to hear the petitioners on 09.02.2007. On the said date, no hearing took place and the matter was adjourned, it is submitted.

2. I also heard the learned counsel for the 4th respondent, who is the auction purchaser. Having regard to the facts of the case, it is evident that the confirmation order was passed without hearing the petitioners. The learned counsel for the 4th respondent pointed out that the petitioners have no right over the said property. But, it is a matter to be decided after hearing both sides. Accordingly, the confirmation order Ext.R4(a) is set aside and the 1st respondent is directed to pass orders on Ext.P6 after affording an opportunity of being heard to the petitioners, the 4th respondent and other persons, if any, interested in the matter, within one month from the date of receipt of a copy of this Judgment. The

petitioner or the 4th respondent may produce a copy of this Judgment before the District Collector without delay.

The Writ Petition is disposed of above.

04.04.2007 **K.BALAKRISHNAN NAIR,JUDGE**

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